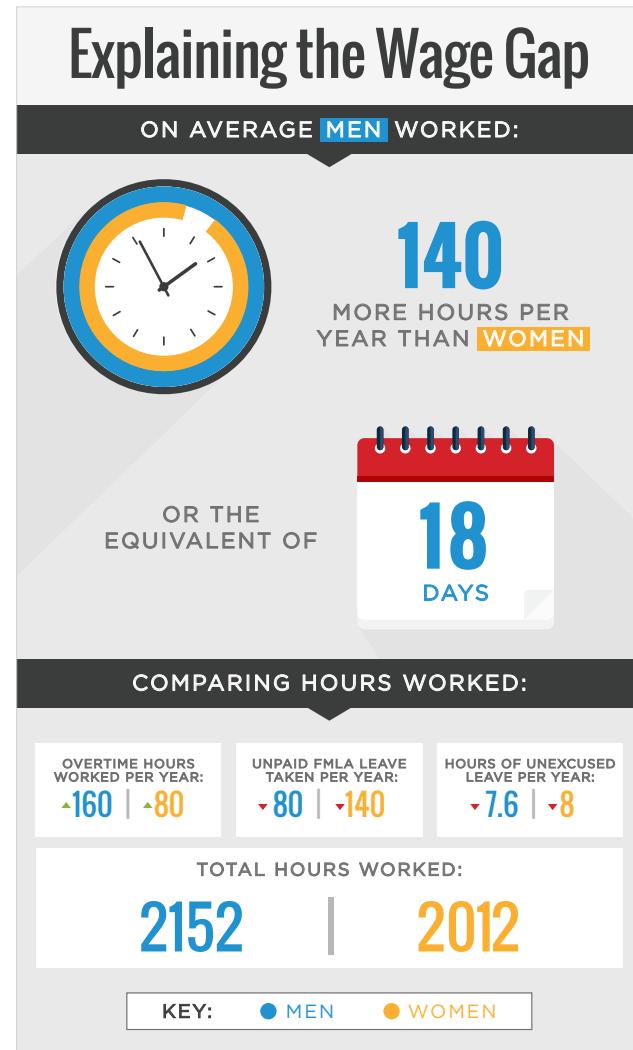


## The Truth About H.R. 7—the Paycheck Fairness Act

- ✓ Everyone, man or woman, should be treated equally, including receiving equal pay for equal work.
- ✓ Both the 1963 Equal Pay Act and Title VII of the 1964 Civil Rights Act *already* prohibit wage discrimination based on gender or race.
- ✓ The wage gap is in part a **Choice Gap**, reflecting average differences in how men and women make work-life choices, such as preferences for higher pay versus more flexibility.
- ✓ H.R. 7 would hurt all Americans by making the economy less productive—it would especially hurt women, minorities, and employers.

### A Choice Gap

- The existing wage gap illustrates many differences between men and women in the workplace, including hours worked, different occupations, years of experience, and time spent out of the formal workforce. It demonstrates that in America, workers, regardless of gender, are paid for performance.
- Men are more likely than women to take on higher-risk jobs in exchange for higher pay:
  - 93 percent of workplace fatalities are men.
- Women are more likely than men to choose jobs for reasons other than pay, including workplace benefits and more flexible hours, with women who have children showing the greatest preference:
  - Pew found that 70 percent of working mothers consider a flexible schedule extremely important, versus 48 percent of working fathers.
- Unmarried, childless women under 30 who live in cities actually earn more, on average, than their peer group of men.
- A 2018 Harvard study (see graphic) of bus and train operators in the Massachusetts Bay Transit Authority revealed:
  - Even with a rigid union pay regime, women still earned 11 cents less than men.
  - Women worked fewer weekly, weekend, and overtime hours than men, and took more unpaid leave than men.



## H.R. 7: Paycheck Fairness Act

- **Who wins?** Trial Lawyers.
  - H.R. 7 incentivizes trial lawyers to create an unending stream of class action lawsuits.
- **Who loses?** All Americans, including workers—especially women and minorities—and their employers.
  - Business would face much greater liability, reducing profitability and workers' wages. Merit-based pay would be replaced with rigid pay scales, reducing workplace flexibility, overall productivity, and pay.

## Hurts Workers and Women

- H.R. 7 turns women and minorities from valued contributors into potential liabilities, making it more difficult for them to get their foot in the door.
- Performance-based pay would be replaced with rigid pay scales, similar to how government and unionized workers are paid, reducing overall employee morale as merit-based rewards would disappear.
- Women would no longer be able to choose between a higher salary and flexibility in benefits or hours.

## Bad for Employees, Employers, and Businesses

- H.R. 7 infringes on employers' ability to operate and grow their business by subjecting business decisions to frivolous lawsuits by trial lawyers.
- Businesses fearing frivolous lawsuits would have little choice but to adopt one-size-fits-all pay scales and hiring practices, moving away from merit-based pay practices to uniform wage schedules, regardless of performance.
- H.R. 7 would invert the U.S. justice system by turning the presumption of innocence until proven guilty on its head. Employers would have to defend any differences in pay by proving that these differences are a "business necessity"—a broad and ambiguous standard that will be almost impossible to meet.
- Denmark implemented a much less aggressive law in 2007, requiring businesses to report any wage discrepancies. A study of that law found:
  - Overall wages declined, making men worse off and women no better off.
  - Companies lost productivity.

## Women Value Flexible Hours and Flexible Benefits<sup>1</sup>

According to a Gallup survey:

- **60%** of female job seekers say greater work-life balance and personal well-being are "very important" to them when considering whether to take a job.
- **46%** of female employees say flextime is the most important benefit a company can offer employees.
- **44%** of female employees would leave their current job for one that allowed them to work off-site part time.

1. Jane Miller and Amy Adkins, "Gender Pay Gap: Two Key Causes," Gallup, November 2, 2016, <https://news.gallup.com/businessjournal/197003/gender-pay-gap-two-key-causes.aspx> (accessed March 22, 2019).

## Additional Reading

1. Rachel Greszler, "Democrats Want to Close the "Gender Pay Gap." Here Are 4 Ways Their Proposal Would Backfire," *Commentary*, <https://www.heritage.org/jobs-and-labor/commentary/democrats-want-close-the-gender-pay-gap-here-are-4-ways-their-proposal>.
2. Rachel Greszler, "New Study Dispels Misconceptions About "Motherhood Penalty" and "Fatherhood Premium," *Commentary*, <https://www.heritage.org/jobs-and-labor/commentary/new-study-dispels-misconceptions-about-motherhood-penalty-and-fatherhood>.
3. Rachel Greszler, and James Sherk, "Equal Pay for Equal Work: Examining the Gender Gap," *Issue Brief*, <https://www.heritage.org/jobs-and-labor/report/equal-pay-equal-work-examining-the-gender-gap>.